

of partial cancellation for the reasons specified in paragraph (b) and (c) of this section. For the purposes of this section, the terms "cancellation" and "termination" as used in this section and in timber sale contracts, permits, and other such instruments are synonymous and may be used interchangeably.

(a) *Definitions.* The following definitions apply to the provisions of this section.

(1) *Purchaser* means, for the purpose of this section, any holder of a National Forest System timber sale contract, permit, or other such instrument authorizing the harvest of timber or other forest products.

(2) *Partial Cancellation* means the elimination of one or more, but not all, of the identifiable harvest units from a timber sale contract, permit, or other such instrument.

(3) *Modification* means the elimination of a portion of, but not all of, an identifiable harvest unit or units from a timber sale contract, permit, or other such instrument.

(4) *Cancellation* means the termination of contract requirement(s) for the removal of the remaining timber or other forest products from all of the identifiable harvest units of a timber sale contract, permit, or other such instrument.

(b) *Cancellation actions reserved to the Chief.* Based upon review of the administrative record, the Chief of the Forest Service shall cancel or partially cancel any timber sale contract, permit, and other such instrument authorizing the sale and harvest of trees or other forest products upon a determination that one or both of the following:

(1) Continued operation of the timber sale contract, permit, or other such instrument will result in the violation of a Federal statute or regulation; and/or

(2) Continued operation of the timber sale contract, permit, or other such instrument will unreasonably conflict with the management of other forest resources.

(c) *Other cancellation actions.* Based upon review of the administrative record, the Chief of the Forest Service, or other Forest Service official to whom such authority is delegated, may cancel or partially cancel, timber sale contracts, permits, or other such instruments authorizing the sale and harvest of trees or other forest products for any of the following reasons:

(1) For material breach or continued violation of their terms.

(2) Upon application or with the consent of the purchaser, for reasons other than those listed in this section, when such action is of advantage to the

United States or not prejudicial to its interests.

(3) Upon application of the purchaser or by notice of the Forest Service, when catastrophic damage caused by forces beyond the control of either the purchaser or the Forest Service materially diminishes the value of the timber remaining to be cut because of substantial damage to the timber itself or because of physical change in the sale area or access to the timber.

(4) For a conviction of a purchaser for violation of any Federal or State criminal statute, when such violation is in any way connected with obtaining, attempting to obtain, selling, trading, or processing public timber, or obtaining, attempting to obtain, or performing a public contract or subcontract.

(5) Upon final agency or judicial determination of a purchaser's violation of civil standards, orders, permits, or other regulations for the protection of environmental quality issued by a Federal agency, State agency, or political subdivision thereof, in the conduct of operations under such regulations on National Forest System land.

(6) To comply with a Federal court order or a court approved settlement agreement, regardless of whether the sale is named in such an order, upon determination by the Forest Service that the order applies to the conditions existing on the sale.

(d) *Partial Cancellation.* Any timber sale contract, permit, or other such instrument for the sale or harvest of timber or forest products that contains individually identifiable harvest units may be partially cancelled without the Forest Service incurring liability for breach of the entire contract. When a timber sale is partially cancelled, a purchaser retains the duty to perform the remaining portions of the contract, unless, based upon evidence provided by the purchaser, the Contracting Officer determines that it would be uneconomical for the purchaser to perform the remaining portion of the contract.

(e) *Compensation.* (1) In the event of cancellation or partial cancellation by the Government of a contract, permit, or other such instrument under paragraphs (b) and (c) of this section, compensation, if any, is to be determined as follows:

(i) If the cancellation or partial cancellation is made pursuant to paragraph (b)(1), (b)(2), or (c)(6) of this section, the purchaser may receive compensation for out-of-pocket expenses, except where the Forest Service finds the purchaser contributed to the reason(s) for cancellation. Out-of-pocket expenses include only

unrecovered costs arising from acquiring and performing the contract prior to cancellation. Out-of-pocket expenses do not include attorney's fees, lost profits, replacement cost of timber, or any other anticipatory losses by the purchaser. All such expense claims must be submitted, along with supporting documentation, to the Contracting Officer, pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 605).

(ii) If the cancellation or partial cancellation is made pursuant to paragraphs (c)(1), (3), (4), or (5) of this section, the purchaser shall not receive any compensation.

(2) If the cancellation or partial cancellation by the government is made pursuant to paragraph (c)(2) of this section, compensation to either party will be determined subject to such terms as may be included in a written mutual agreement between the parties.

§ 223.116 [Removed]

4. Remove § 223.116 in its entirety.

Dated: May 3, 1996.

David G. Unger,
Associate Chief.

Editorial Note: This document was received in the Office of the Federal Register on December 23, 1996.

[FR Doc. 96-32937 Filed 12-27-96; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-5671-7]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Carter Industrials site from the National Priorities List; request for comments.

SUMMARY: The United States Environmental Protection Agency (EPA) Region 5 announces its intent to delete the Carter Industrials Site from the National Priorities List (NPL) and requests public comment on this action. The NPL is codified as Appendix B of 40 CFR Part 300. It is part of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which U.S. EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is

being taken by U.S. EPA, because it has been determined that all responses under CERCLA have been implemented and U.S. EPA, in consultation with the State of Michigan, has determined that no further response is appropriate. Moreover, U.S. EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before January 29, 1997.

ADDRESSES: Comments may be mailed to Rita Garner-Davis (SRJ) Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604. Comprehensive information on the site is available at U.S. EPA's Region 5 office and at the local information repository located at: Detroit Public Library, Main Library—Reference Department, 5201 Woodward Avenue, Detroit, Michigan. Requests for copies of documents should be directed to the Region 5 Docket Office. The address and phone number for the Regional Docket Officer is Jan Pfundheller (H-7J), U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353-5821.

FOR FURTHER INFORMATION CONTACT: Rita Garner-Davis (SRJ) Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886-2440 or Derrick Kimbrough (P-19J), Office of Public Affairs, U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886-9749.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The U.S. Environmental Protection Agency (EPA) Region 5 announces its intent to delete the Carter Industrials Site from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on the proposed deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to Section 300.425(e)(3) of the

NCP, (40 CFR 300.425(e) (3)), any site deleted from the NPL remains eligible for Fund-financed remedial actions if the conditions at the site warrant such action.

The U.S. EPA will accept comments on this proposal for thirty (30) days after publication of this notice in the Federal Register.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site and explains how the site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Furthermore, deletion from the NPL does not in any way alter U.S. EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist in Agency management.

II. NPL Deletion Criteria

The NCP establishes the criteria the Agency uses to delete Sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, U.S. EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- (i) Responsible parties or other persons have implemented all appropriate response actions required; or
- (ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or
- (iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

III. Deletion Procedures

Upon determination that at least one of the criteria described in 300.425(e) has been met, U.S. EPA may formally begin deletion procedures once the State has concurred. This Federal Register notice, and a concurrent notice in the local newspaper in the vicinity of the Site, announce the initiation of a 30-day comment period. The public is asked to comment on U.S. EPA's intention to delete the Site from the NPL. All critical documents needed to evaluate U.S. EPA's decision are included in the information repository and the deletion docket.

Upon completion of the public comment period, the U.S. EPA Regional Office will prepare a Responsiveness Summary responding to each significant comment and any significant new data submitted during the comment period. This document shall be included in the final deletion package. The public is welcome to contact the U.S. EPA Region 5 Office to obtain a copy of this responsiveness summary. If U.S. EPA ultimately determines the deletion from the NPL is appropriate, final notice of deletion will be published in the Federal Register and the final deletion package shall be placed in the local information depository.

IV. Basis for Intended Site Deletion

The basis for deleting the Carter Industrials Site from the NPL is that actions taken first by EPA and the State of Michigan and then by a group of responsible parties have cleaned up the Site, such that no further response actions are appropriate.

The Carter Industrials Site is located at 4690 Humboldt Street in Detroit, Michigan. The Site covers about 3.5 acres in a mixed residential and light industrial area near downtown. For many years it was used to store and salvage scrap metal, including oil-filled electrical equipment. During salvage operations, dielectric fluids containing PCBs were spilled onto the ground, contaminating site soils. Contaminated soil then spread into the surrounding area via run-off, wind-blown dust, and tracking of spilled materials and contaminated soil by vehicular traffic.

In May 1986, the Michigan Department of Natural Resources (MDNR) took soil samples at the Site, revealing high levels of PCB contamination. On June 4, 1986, MDNR referred the Site to the Emergency Response Program of the U.S. EPA (Region 5). On June 6, 1986, U.S. EPA began to remove PCB contamination from residential areas bordering the Site and to consolidate it on the Carter Industrials property. Contaminated soil was placed in piles which were then maintained so as to prevent any further exposure to PCBs while EPA considered options for a permanent remedy.

On March 31, 1989, EPA listed the Site on the NPL. On September 19, 1991, EPA issued a Record of Decision (ROD), selecting low-temperature thermal desorption as the remedy. The ROD called for a desorption unit to be constructed on-site through which contaminated soil would have been treated and contamination removed. Treated soil that did not meet stipulated cleanup levels was to have been placed in a landfill constructed on the Carter

property. In September, 1992, 14 potentially responsible parties ("the Carter Group") signed a consent decree under which they agreed to implement the remedy EPA selected.

On February 28, 1995, EPA amended the Record of Decision to change the remedy from the low-temperature thermal desorption of PCBs to off-site disposal. The major components of the amended remedy included: (1) Excavation of soil on the Carter Site and from designated properties in the neighborhood near the Site containing one part per million (ppm) or more PCBs. (2) Demolition of contaminated buildings on the Site. (3) Disposal of contaminated soil and debris at an approved permitted, off-site landfill. (4) Stabilization of material containing high concentrations of lead prior to disposal. (5) Air monitoring and dust suppression during remedial activities. (6) Removal of underground storage tanks and their contents from the Site in accordance with Michigan regulations. (7) Restoration of areas where demolition or excavation took place. (8) Maintenance of all existing site safety measures, including fence, security guards, operation and maintenance of surface water runoff collection and treatment system during remedial activities.

The Carter Group began implementation of the amended remedy on August 1, 1995, and completed work on June 21, 1996. Contaminated material from the Carter Site was shipped to the Model City Landfill in Model City, New York—an EPA-approved landfill with a permit to handle PCBs. In addition to completing the work required under the amended Record of Decision, the Carter Group also cleaned out sewer lines where PCB contamination from the Carter Site may have collected. This action ensured that sewer-line sludge containing PCBs would not be washed into the Detroit River, with resulting harm to human health or the environment.

EPA, with the concurrence of the State of Michigan, has determined that all appropriate responses under CERCLA at the Carter Industries Superfund Site have been completed, and no further CERCLA response is appropriate in order to provide protection of human health and the environment. Therefore, EPA proposes to delete the site from the NPL.

Dated: December 18, 1996.

David A. Ullrich,

Acting Regional Administrator, U.S. EPA, Region 5.

[FR Doc. 96-32975 Filed 12-27-96; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Chapter IV

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Chapter XXV

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Chapter I

Health Insurance Portability

AGENCY: Department of Health and Human Services, Health Care Financing Administration; Department of Labor, Pension and Welfare Benefits Administration; and Department of the Treasury, Office of Tax Policy and Internal Revenue Service (the Agencies).

ACTION: Solicitation of comments.

SUMMARY: The Agencies have received comments from the public on a number of issues arising under the portability, access, and renewability provisions of the Health Insurance Portability and Accountability Act of 1996. Further comments from the public are welcome.

DATES: The Agencies have requested that comments be submitted on or before February 3, 1997.

ADDRESSES: For convenience, written comments should be submitted with a signed original and 3 copies to the Health Care Financing Administration (HCFA) at the address specified below. HCFA will provide copies to each of the Agencies for their consideration. All comments will be available for public inspection and copying in their entirety.

Health Care Financing Administration,
Department of Health and Human
Services, Attention: BPD-886-N, P.O.
Box 26688, Baltimore, Maryland
21207

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 309-G, Hubert Humphrey
Building, 200 Independence Avenue,
SW., Washington, D.C. 20201, or
Room C5-09-26, 7500 Security
Boulevard, Baltimore, Maryland
21244-1850

Alternatively, comments may be submitted electronically via the HCFA e-mail address at: iritf@fhcf.gov. Because of staffing and resource

limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD-886-N. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309-G of the Department of Health and Human Services offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone (202) 690-7890).

FOR FURTHER INFORMATION CONTACT:

Suzanne Long, Health Care Financing Administration, at 410-786-0970 (not a toll-free number); Diane Pedulla, Department of Labor, Office of the Solicitor, Plan Benefits Security Division, at 202-219-4597 (not a toll-free number); or Russ Weinheimer, Internal Revenue Service, at 202-622-4695 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) was enacted on August 21, 1996 (Public Law 104-191). HIPAA amended the Public Health Service Act (PHSA), the Employee Retirement Income Security Act of 1974 (ERISA), and the Internal Revenue Code of 1986 (Code) to provide for, among other things, improved portability and continuity of health insurance coverage in the group and the individual insurance markets, including group health plan coverage provided in connection with employment. Health coverage is regulated in part by the Federal government, under the PHSA, ERISA, the Code, and other Federal provisions, and in part by the States.

The portability, access, and renewability provisions of HIPAA are set forth in Title XXVII of the PHSA, Part 7 of Subtitle B of Title I of ERISA, and Subtitle K of the Code (referred to below as the HIPAA portability provisions). The HIPAA portability provisions are designed to improve the availability and portability of health insurance coverage by limiting exclusions for preexisting conditions and providing credit for prior coverage, guaranteeing availability of health coverage for small employers, prohibiting discrimination against employees and dependents based on health status, and guaranteeing renewability of health coverage for employers and individuals. The HIPAA